

	<b>INDIANA DEPARTMENT OF CHILD SERVICES</b> <b>TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 12: Enforcement</b>	<b>Effective Date: 05/18/2021</b>
	<b>Section 3.2: State Tax Refund Offset</b>	<b>Version: 1.1</b> <b>Revision Date: 05/18/2021</b>

## BACKGROUND

Federal law requires the State Title IV-D agency to have procedures for enforcing a support order and collecting overdue support from State tax refunds.<sup>1</sup> The Child Support Bureau (CSB) is required to have procedures to ensure the amounts referred to the Indiana State Department of Revenue (SDOR) for offset are correct.<sup>2</sup>

## POLICY

CSB will submit to SDOR for State tax offset any obligor with a total amount, among all of the obligor's cases, of child support arrearage of \$150.00 or more.<sup>3</sup> CSB will follow all federal and State law on the procedure for providing obligors with notice of the offset and distribution of the offset funds to the appropriate cases. When the offset has been found to be in error or exceeds the amount of overdue support, CSB shall promptly refund any excess amount to the obligor.<sup>4</sup>

## REFERENCES

- [IC 6-8.1-9.5](#): Set Off of Refunds
- [465 IAC 1-1-13](#): State income tax refund intercept
- [CSB-AT-325](#): Removal of 15% Processing Fee for State Tax Intercepts
- [CSB-AT-336](#): ISETS Programming Changes for Tax Distribution
- [CSB-AT-374](#): Weekly Posting of State Tax Collections
- [CSB-LTR-5-25-99](#): State Tax Offset Threshold Change
- [42 U.S.C. § 666](#): Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement
- [45 C.F.R. § 302.70](#): Required State laws
- [45 C.F.R. § 303.102](#): Collection of overdue support by State income tax refund offset

## PROCEDURE

CSB notifies SDOR through the interface of the amount owed by the obligor.<sup>5</sup> SDOR sends an electronic file through the interface which contains the names of obligors entitled to a State tax refund.<sup>6</sup> Within 15 days of receiving that file from SDOR, CSB sends a notice of intent (NOI) to

<sup>1</sup> 42 U.S.C. § 666(a)(3); 45 C.F.R. § 302.70(a)(3)

<sup>2</sup> 45 C.F.R. § 303.102(b)

<sup>3</sup> CSB-LTR-5-29-99

<sup>4</sup> 45 C.F.R. § 303.102(c)(2); 45 C.F.R. § 303.102(g)(2); 465 IAC 1-1-13

<sup>5</sup> IC 6-8.1-9.5-3

<sup>6</sup> IC 6-8.1-9.5-4

offset the State tax refund to the obligor.<sup>7</sup> The obligor then has 30 days to contest the offset and request a hearing.<sup>8</sup> The obligor may submit a written request for an administrative hearing to CSB. The only basis for contesting the State tax refund offset is that a “mistake of fact” has occurred. A mistake of fact, for the purposes of contesting the State tax refund offset is either an error in the amount of support due listed in the NOI or the identity of the obligor. See For more information, see Chapter 12: Enforcement, Section 6: Administrative Hearings. After the initial referral, CSB is required to notify SDOR of any significant reductions in the amount that was referred for State tax offset.<sup>9</sup> An obligor must be given advance notice of a State tax offset which includes the procedures to contest the offset.<sup>10</sup> In the event of a joint tax return, the obligor’s spouse may apply for the spouse’s share of the refund with CSB.<sup>11</sup> After final determination of CSB’s claim to the offset, either as a result of a hearing or that the obligor does not contest the offset, CSB certifies to SDOR the amount owed subject to offset.<sup>12</sup>

SDOR electronically forwards the offset in the appropriate amount to CSB.<sup>13</sup> State tax offset collections are posted to cases every week on Saturdays. Any State tax offset posted to an arrears subaccount is on a 29 day hold; however, the hold does not apply to any State tax offset posted to a current support subaccount.

State tax offset distribution follows the regular payment distribution rules on a case.<sup>14</sup> When the obligor has more than one case, the distribution of the State tax offset is the following:

1. Current support for each of the cases. If the offset is not enough to pay current support in full for each of the cases, then the offset is prorated among the current support owed in each of the cases.
2. Arrears owed to the obligee in each of the cases. If the offset is not enough to pay the arrears owed to the obligee in full in each of the cases, then the offset is prorated among the arrears owed to the obligee in each of the cases.
3. Arrears owed to the State in each of the cases. If the offset is not enough to pay the arrears owed to the State in full in each of the cases, then the offset is prorated among the arrears owed to the State in each of the cases.<sup>15</sup>
4. If all subaccounts have been paid in full for each case, CSB shall promptly refund any excess offset amount to the obligor.<sup>16</sup>

When a State tax offset is received, the statewide child support system is programmed to only hold amounts up to the arrears balance at the time the funds are received. If the current monthly support has been satisfied and the arrearage is less than the intercept, all excess funds are directed to the Potential Payer Refund (PPR) report automatically. If there is a STOP on enforcement, a closed case, or a non-Title IV-D (NIVD) case, all of the offset will go to the PPR.

The PPR is sent to the Title IV-D Prosecutor’s Office daily via the statewide child support system. Funds listed on the PPR automatically release to the obligor after 29 days on the PPR.

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<sup>7</sup> IC 6-8.1-9.5-5

<sup>8</sup> IC 6-8.1-9.5-6

<sup>9</sup> 45 C.F.R. § 303.102(b)

<sup>10</sup> 42 U.S.C. § 666(a)(3)(A); 45 C.F.R. § 303.102(c)(1); 45 C.F.R. § 303.102(e)

<sup>11</sup> 45 C.F.R. § 303.102(c)

<sup>12</sup> IC 6-8.1-9.5-8

<sup>13</sup> IC 6-8.1-9.5-8

<sup>14</sup> See Chapter 14: Payment Processing

<sup>15</sup> CSB-AT-336

<sup>16</sup> 45 C.F.R. § 303.102(c)(2); 45 C.F.R. § 303.102(g)(2); 465 IAC 1-1-13

The Title IV-D Prosecutor's Office may review the PPR report and request funds be released to the obligor sooner or request an adjustment to have funds applied to the case.

There is no fee for State tax offset.<sup>17</sup> The entire amount of the offset is applied to the case.

## FORMS AND TOOLS

1. [Example Offset Letters](#)

## FREQUENTLY ASKED QUESTIONS

N/A

## RELATED INFORMATION

Chapter 14: Payment Processing

## REVISION HISTORY

Version	Date	Description of Revision
Version 1	01/07/2019	Final Approved Version
Version 1.1	05/18/2021	Updated for consistent formatting and language.

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<sup>17</sup> CSB-AT-325